

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CIVIL No. 10-4850 (MJD/TNL)

MILLARD WILLIAMS,

PLAINTIFF,

V.

REPORT & RECOMMENDATION

MICHAEL J. ASTRUE, COMMISSIONER OF
SOCIAL SECURITY,

DEFENDANT.

Millard Williams, 3510 6th Street North, Minneapolis MN 55412, pro se Plaintiff.

Lonnie F. Brian, Assistant United States Attorney, 600 United States Courthouse,
300 South Fourth Street, Minneapolis MN 55415, for Defendant

I. INTRODUCTION

This action has been referred to the magistrate judge for report and recommendation to the district court under 28 U.S.C. § 636 and Local Rule 72.2(b). This matter is before the Court, Magistrate Judge Tony N. Leung, on the Order to Show Cause (Docket No. 10). Based upon the record, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITH PREJUDICE**.

II. BACKGROUND

On December 8, 2010, Plaintiff Millard Williams filed a Complaint for Judicial Review of Decision of the Commissioner of Social Security (Docket No. 1). On February 22, 2011, Defendant Commissioner of Social Security filed Answer (Docket No. 6) and a certified copy of

the administrative record (Docket No. 7). Plaintiff failed to file and serve a summary-judgment motion and a supporting memorandum. On May 10, 2011, this Court issued an Order to Show Cause (Docket No. 10), directing that, on or before June 6, 2011, Plaintiff must show cause why this case should not be dismissed for lack of prosecution. The Order to Show Cause stated: “Failure to respond to this Order shall result in this Court issuing a Report and Recommendation, recommending that this matter be dismissed for Plaintiff’s failure to prosecute her claim.” As of the date of this Report and Recommendation, there has been no filing or response by Plaintiff.

III. ANALYSIS

Pro se litigants are “not excused from complying with substantive and procedural law.” *Brown v. Frey*, 806 F.2d 801, 804 (8th Cir.1986). “A district court may *sua sponte* dismiss an action under Rule 41(b) [of the Federal Rules of Civil Procedure] for the plaintiff’s deliberate failure to comply with a court order.” *Holly v. Anderson*, 467 F.3d 1120, 1121 (8th Cir. 2006).

In the present case, Plaintiff has failed to comply with United States District Court for the District of Minnesota Local Rule 7.2(b)(1), which requires that “[w]ithin 60 days after the Commissioner of Social Security serves the answer and administrative record, the plaintiff must file and serve a summary-judgment motion and a supporting memorandum.” Plaintiff failed to respond to the Order to Show cause, which apprised Plaintiff that his failure to respond would result in this Court issuing a Report and Recommendation, recommending that this matter be dismissed for Plaintiff’s failure to prosecute his claim. Based upon Plaintiff’s failure comply with the Local Rules and failure to comply with this Court’s Order, this Court concludes that Plaintiff has abandoned his action, and therefore, this action should be dismissed for failure to prosecute.

IV. RECOMMENDATION

Based upon the record, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITH PREJUDICE**.

Dated: June 16, 2011

s/ Tony N. Leung
Magistrate Judge Tony N. Leung
United States District Court
For the District of Minnesota

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court and by serving upon all parties written objections that specifically identify the portions of the Report to which objections are made and the basis of each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before July 2, 2011.